

GP-303275

REMARKS

Claims 1, 2, and 4-14 were pending in the present Application. Before substantively addressing the Office Action, it is noted that Claim 3 was previously canceled. The present Office Action indicates allowance of Claims 1-7. Appropriate correction is requested in the next Office Action or Notice of Allowance.

Claims 8 and 10 have been amended, leaving Claims 1, 2 and 4-14 for consideration upon entry of the present Amendment. No new matter has been introduced by these amendments. Features of Claim 10 have been incorporated into Claim 8. Reconsideration and allowance of the claims are respectfully requested in view of the above amendments and the following remarks.

Claim Rejections Under 35 U.S.C. § 102(b)

Claims 8, 9 and 11-13 stand rejected under 35 U.S.C. § 102(b), as allegedly anticipated by Deshmukh et al. Applicants respectfully traverse this rejection.

Amended Claim 8 is directed to a magnetorheological damper comprising, *inter alia*, a piston assembly comprising an open cell porous media comprising a plurality of fluid passageways extending from a first chamber to a second chamber, wherein the open cell porous media comprises a plurality of stackedly arranged sheets.

Deshmukh is generally directed to impact absorbers using an energy-absorbing fluid impregnated material consisting of a porous network of solid material.

To anticipate a claim, a reference must disclose each and every element of the claim. *Lewmar Marine v. Barient Inc.*, 3 U.S.P.Q.2d 1766 (Fed. Cir. 1987).

Deshmukh fails to anticipate Claim because Deshmukh fails to disclose a piston assembly comprising an open cell porous media comprising a plurality of fluid passageways extending from a first chamber to a second chamber, wherein the open cell porous media comprises a plurality of stackedly arranged sheets.

Accordingly, the rejection is requested to be withdrawn for at least this reason.

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Claim Rejections Under 35 U.S.C. § 103(a)

Claim 14 stands rejected under 35 U.S.C. § 103(a), as allegedly unpatentable over Deshmukh et al. in view of Namuduri et al. Applicants respectfully traverse this rejection.

For an obviousness rejection to be proper, the Examiner must meet the burden of establishing a *prima facie* case of obviousness, i.e., that all elements of the invention are disclosed in the prior art. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988); *In Re Wilson*, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970); *Amgen v. Chugai Pharmaceuticals Co.*, 927 U.S.P.Q.2d, 1016, 1023 (Fed. Cir. 1996).

For reasons discussed above, the primary reference, Deshmukh, fails to disclose (or even suggest) a piston assembly comprising an open cell porous media comprising a plurality of fluid passageways extending from a first chamber to a second chamber, wherein the open cell porous media comprises a plurality of stackedly arranged sheets. Namuduri fails to compensate for the deficiencies of Deshmukh.

Because the combination of references fail to teach or suggest Applicants' claimed piston assembly, the rejection is requested to be withdrawn.

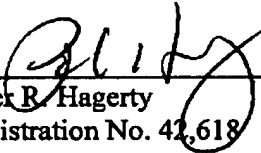
It is believed that the foregoing amendments and remarks fully comply with the Office Action and that the claims herein should now be allowable to Applicants. Accordingly, reconsideration and allowance are requested.

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If there are any additional charges with respect to this Amendment or otherwise, please charge them to Deposit Account No. 06-1130.

Respectfully submitted,

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